

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

1

V.

1

No. 1:14-cr-93-01-LM

1

ALKIS NAKOS

1

UNITED STATES' NOTICE TO COURT

The United States of America, by Emily Gray Rice, United States Attorney for the District of New Hampshire, provides this court with the following:

This court presided over the trial of Alkis Nakos. During that trial, the United States elicited testimony from Jonathan Venturini as to the terms of his cooperation agreement with the United States.

When questioned on direct examination as to the sentence he might receive, Venturini testified that the government had not made any promises to him as to his testimony and that the government had agreed to a sentencing range of 42 to 54 months. He further testified on direct examination that all he expected was "Just the deal I signed, that's it."

On cross-examination, Venturini again repeated that the sentencing range he was exposed to was 42 to 54 months. Venturini testified that he was planning on the “bottom of the deal.” At no time did Venturini testify that he expected to do better than the bottom of the deal.

The United States has learned that at a trial preparation session held on August 6, 2015, the Assistant United States Attorney prosecuting the case made statements to Venturini and his counsel suggesting that Venturini could do better than the 42 to 54 month sentencing range that the parties had agreed to under the provisions of Fed. R. Crim. P. 11(c)(1)(C). Venturini and his counsel were told that although no promises were being made, Venturini should read between the lines of the prosecutor's statements.

The prosecutor did not elicit from Venturini any testimony concerning these statements or suggestions at the trial. Nakos' trial counsel also was not advised about these statements or suggestions prior to or during the trial.¹

The United States litigated this issue in the context of the sentencing of Jonathan Venturini, *United States v. Venturini*, 1:14-cr-85-JD, making full disclosure to Judge DiClerico in the course of that litigation. Venturini subsequently received a sentence that was less than the range set forth in the plea agreement. By making this submission, the United States is seeking to ensure that this Court is aware of this information.

Respectfully submitted,

EMILY GRAY RICE
United States Attorney

/s/ Donald Feith
Donald Feith
First Assistant United States Attorney
New Hampshire Bar No. 783
United States Attorney's Office
53 Pleasant Street, 4th Floor
Concord, NH 03301
(603) 225-1552
Donald.Feith@usdoj.gov

CERTIFICATION

I hereby certify that a copy of this objection has served by first class mail, postage prepaid, on Charles Keefe, Esquire, Wilson Bush Durkin & Keefe, P.C., 184 Main Street, Suite 222, Nashua, New Hampshire 03050 on February 3, 2016.

/s/ Donald Feith
Donald Feith
First Assistant United States Attorney

¹ The United States advised Nakos' then counsel in a December 3, 2015 letter as to the statements made during Venturini's trial preparation.